

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

Case Nos.

RICARDO GARCIA-VELASQUEZ

05-CR-183

aka Ricardo Garcia,

RAUL GARCIA-VELASQUEZ

05-CR-184

aka Raul Garcia

LUIS CONTRERAS-GALLEGOS

05-CR-185

aka Rudolpho Gallegos,

GREGORIO MEDINA-TADEO

05-CR-186

aka Eugenio Pilar Lopez,

MIGUEL DELGADO-GALVIN

05-CR-187

aka Miquel A. Delgado

ERIC MIGUEL-CRUZ,

05-CR-188

Defendants.

ORDER

On July 29, 2005, this Court imposed a stay on the order of Magistrate Judge Aaron E. Goodstein which dismissed the informations filed against the defendants. The Magistrate Judge found that no probable cause existed for their issuance.

Before the Court are the defendants' Motion to Lift the Stay (and in effect dismiss the informations) and the government's request that the Court review the decision of the Magistrate Judge "de novo" and restore the informations.

The Court has read the supporting submissions of the parties on the motions and rules as follows. First, the Court finds that it has jurisdiction to hear the government's

motion under 28 U.S.C. § 636(b)(1) and the parallel Local Rule 72.2(b)(14). This is a *de novo* review.

Second, the Magistrate Judge found that no probable cause supported the issuance of the informations which charged the defendants with misdemeanors.¹ In this regard, the Court agrees with the government that no showing of probable cause is necessary in order to file an information that charges a misdemeanor. This position is sufficiently supported by Rule 7(c)(1) and 58(b)(1) of the Federal Rules of Criminal Procedure and requires the reinstatement of the informations.

In addition, because the Court deems this is a “de novo” review, the Court will accept for consideration the affidavits submitted by Senior Special Agent Stephen Maltby offered in support of the finding of probable cause. Because the affidavits provide probable cause for the issuance of the informations, another basis is established for their reinstatement.

NOW, THEREFORE BASED ON THE FOREGOING, IT HEREBY ORDERED THAT the decision of the Magistrate Judge dismissing the informations is overruled. The informations are reinstated.

Dated at Milwaukee, Wisconsin, this 26th day of August, 2005.

SO ORDERED,

s/ Rudolph T. Randa
HON. RUDOLPH T. RANDA
Chief Judge

¹The Court addresses the merits of the ruling although it does not come before the Court in the form of a Recommendation. This is done in the interests of judicial economy.